

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JERRY LEWIS DEDRICK	§	
VS.	§	CIVIL ACTION NO. 1:08-CV-678
JODY R. UPTON	§	

MEMORANDUM ORDER OVERRULING PLAINTIFF’S OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff Jerry Lewis Dedrick, a federal prisoner confined in Beaumont, Texas filed this civil rights action<sup>1</sup> against Warden Jody R. Upton. Plaintiff requested leave to proceed *in forma pauperis*.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying plaintiff leave to proceed *in forma pauperis*, and dismissing the action pursuant to 28 U.S.C. § 1915(g) unless plaintiff paid the \$350 filing fee within ten days.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge’s Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the

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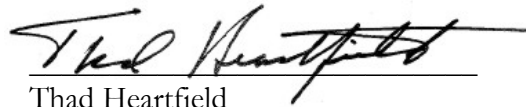
<sup>1</sup> Plaintiff filed this case as a petition for writ of habeas corpus under 28 U.S.C. § 2241. Because he is challenging the conditions of his confinement, the petition has been construed as a civil rights action. *Spina v. Aaron*, 821 F.2d 1126, 1128 (5th Cir. 1987).

objections are without merit. Plaintiff has not demonstrated that he was in imminent danger of serious physical injury at the time he filed this lawsuit.

**ORDER**

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

**SIGNED** this the **30** day of **December, 2008**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", is written over a horizontal line.

Thad Heartfield  
United States District Judge